IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL SIDE JURISDICTION

CHAMBER SUMMONS NO.550 OF 2004
IN
SUIT NO.1753 OF 1983

Shah Babulal Khimji & Ors. ...Plaintiffs
Vs.
Balwantrai Gulabrai Bhatt & Ors. ...Defendants
And
Arun S/o. Banwarilal Hanumanbux Saraf ...Respondent

Mr. Thomal Almeida Adv. for Plaintiffs
Mr. K.A. Sampat Adv. for Defendant No.2

CORAM: ROSHAN DALVI, J.
DATED: 19TH DECEMBER, 2005

P.C.

1. The Chamber Summons is to bring the heirs of deceased Defendant No.3 on record. The Plaintiff has joined one Arun as the Respondent who, according to the Plaintiff is the son of the deceased Defendant No.3 Mr. Sampat states that deceased Defendant No.3 has died leaving behind him two sons one Arun and one Atul.

2. The Plaintiff contends that this Chamber Summons is delayed by only 10 days and applies for leave to condone the delay. Mr. Sampat contends that the delay is of 5 years because Defendant No.3 expired in 1999. The Plaintiff is shown to have knowledge of the death of Defendant No.3 on 12th December 2003, when this fact was mentioned in the Court. It is reflected in the order of Justice Sathe dated 12th December 2003. Hence, the delay is not of 5 years as

contended on behalf of Defendant No.3. The Chamber Summons is made absolute in terms of prayer clause (a) and (b). There is an error in the name of the son of Defendant No.3 in prayer clause (c). The word "Anil" shown as the son of Defendant No.3 is erroneously written. The Plaintiff shall amend the plaint to bring the heirs of deceased Defendant No.3 being two sons Arun and Atul on record.

. Mr. Sampat states that the wife of Defendant No.3 is also surviving of defendant no.3 but he does not know the name of his wife. Mr. Sampat shall provide the name of wife of the Defendant No.3 to the Plaintiff within one week. The amendment to the plaint shall show the names of all the three heirs of Defendant No.3.

3. The copy of the plaint served upon the Defendants shall also be corrected within 2 weeks from today. N.O.C.

(ROSHAN DALVI, J.)